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**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

5

Application Number

10/738,386

Filing Date

12/17/2003

First Named Inventor

Michael D. Blenkam

Art Unit

3765

Examiner Name

Gloria M. Hale

Attorney Docket Number

SIM03-0001

**ENCLOSURES (Check all that apply)**

Fee Transmittal Form



Fee Attached



Amendment/Reply



After Final



Affidavits/declaration(s)



Extension of Time Request



Express Abandonment Request



Information Disclosure Statement



Certified Copy of Priority Document(s)

Reply to Missing Parts/  
Incomplete ApplicationReply to Missing Parts  
under 37 CFR 1.52 or 1.53

Drawing(s)



Licensing-related Papers



Petition

Petition to Convert to a  
Provisional Application

Power of Attorney, Revocation



Change of Correspondence Address



Terminal Disclaimer



Request for Refund



CD, Number of CD(s) \_\_\_\_\_

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Remarks



After Allowance Communication to TC

Appeal Communication to Board  
of Appeals and InterferencesAppeal Communication to TC  
(Appeal Notice, Brief, Reply Brief)

Proprietary Information



Status Letter

Other Enclosure(s) (please identify  
below):**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name

Antoinette M. Tease, P.L.L.C.

Signature

Printed name

Antoinette M. Tease

Date

12/17/2004

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/738,386  
Filing Date: December 17, 2003  
Applicant: Michael D. Blenkarn  
Title: Pre-Curved Wader With Front and Back Seams  
Examiner/GAU: Gloria Hale/3765

**AMENDMENT AND RESPONSE  
TO NON-FINAL OFFICE ACTION**

The Honorable Commissioner for Patents  
Washington, District of Columbia 20231

Dear Sir:

Please amend the above application as follows:

***Specification:***

*Please replace the Abstract of the Disclosure with the following:*

A wader that is shaped to allow for ease of movement in the hip and knee areas and that has seams running vertically on the anterior and posterior sides of the leg portions. The wader is designed to alleviate discomfort caused by stiff seams and to address the problem of seam abrasion. The wader is made of breathable fabric, and the seams are sewn and sealed. The wader can include, optionally, a foot-covering device and a cinching device. In the preferred embodiment, the seams are sealed with a thermoplastic adhesive tape. A method of manufacturing the wader described above.

**REMARKS**

The Abstract of Disclosure has been amended to remove the word "means."

In response to the examiner's rejection of claims 1–6 and 8–11, the applicant respectfully points out that the invention covered by the Dehner patent (U.S. Patent No. 6,154,884) is an entirely different type of wader than the wader covered by the present invention. The Dehner patent involves a wader that is *non-breathable* below the knee (see column 3, lines 35–36). The present invention, on the other hand, relates solely to a *breathable* wader (see claim 1). In the case of a breathable wader, the wader is typically made of a breathable fabric like Gore-Tex®. In the case of a non-breathable wader, the wader is typically made of neoprene. Breathable and non-breathable waders are fundamentally different in terms of comfort, feel, function and the manufacturing process. The patent office recognized this difference in allowing separate patents for breathable and non-breathable versions of the same wader in the following two patents: U.S. Patent Nos. 6,438,757 entitled “Waterproof Relief Outlet in Breathable Wader” and 6,363,531 entitled “Waterproof Relief Outlet in Wader.” These two patents are identical except that one deals with a breathable wader, and the other deals with a non-breathable wader.

Furthermore, the non-breathable portion of the Dehner wader with the front and back seams is made of a woven nylon supplemented with an inner polyurethane coating (see column 3, lines 47–48), and the seams are heat-sealed (see column 3, line 36). Dehner does not disclose the particular method of heat sealing he used, although he does say that the seams are *not* sewn and sealed, as with breathable fabrics (see column 2, lines 31–32). In this context, the term “heat sealing” most likely means radiofrequency welded, as in the Red Ball wader disclosed in the applicant's patent application (see page 4). In fact, the Dehner patent teaches away from using sewn and sealed seams on a

breathable fabric in connection with front and back seams. Dehner states, “Furthermore, in the preferred design, the lower non-breathable section of the wader may be heat-sealed, thereby eliminating the expense associated with stitching and sealing of breathable materials.” See column 2, lines 31–32.

The examiner has also stated that the Dehner wader “has a pre-curved hip and knee portion.” The examiner has not provided any citation to the Dehner wader in support of this assertion, however, and the applicant cannot find any reference in the Dehner patent to pre-curving of the leg or hip areas of the wader. In fact, the drawings in the Dehner patent do not show any pre-curving at all (see Figure 1). By contrast, the drawings in the present application clearly show the pre-curving in the knee and hip area, which is an important aspect of the present invention (see Figures 3 and 4) and is based on patterns that are cut specifically to provide this type of curving. In the applicant’s view, the Dehner design is inferior because it will cause wear at the point where the inseam joins the non-breathable leg portion. Unlike the Dehner wader, the wader of the present invention is designed to eliminate inseam wear points.

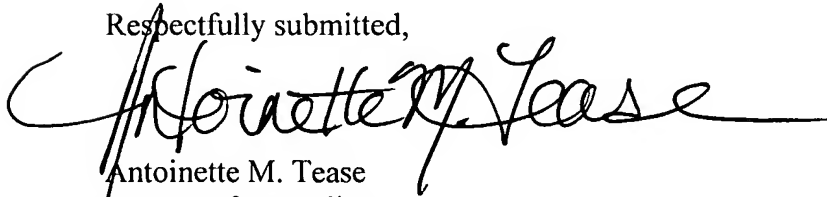
The examiner noted that Dehner disclosed an adhesive tape sealing means; however, in the Dehner patent, the adhesive tape sealing means is used to seal the upper, breathable portion of the wader (which does *not* have front and back seams) with the lower, non-breathable portion of the wader (which does have front and back seams) (see column 4, lines 12–19). The adhesive tape sealing means is not used to seal the front and back seams on the non-breathable leg portions of the wader. In fact, Dehner states that “the heat sealed joints in the legs do not require seam tape” (column 4, lines 18–19). By

contrast, in the present invention, the front and back seams on the leg portions of the wader are preferably sealed with a thermoplastic adhesive tape.

Lastly, the examiner also mentioned the cinching device. The cinching device of the present invention is something that goes around the wearer's waist. See page 6 of the applicant's patent application, where it states that the wader can include "a belt, drawstring, or similar cinching device 5 at the waist region." This is depicted in Figures 1-4 (see reference number 5). The Dehner wader does not have any cinching device at the waist. It has suspenders (see references number 68 in Figure 1 and column 4, line 20), but it does not have a cinching device as that term is used in the present application.

For the reasons set forth above, the applicant respectfully requests that the rejection of claims 1-6 and 8-11 be withdrawn.

Respectfully submitted,



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Antoinette M. Tease  
December 17, 2004